

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

| | | |
|--|---|----------------------|
| JULIAN A. MILLER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 04-1367-KAJ |
| |) | |
| STANLEY TAYLOR, individually and in |) | |
| his official capacity as Commissioner of |) | |
| the Delaware Department of Correction; |) | |
| THOMAS CARROLL, individually and in |) | |
| his official capacity as Warden of the |) | |
| Delaware Correctional Center at Smyrna; |) | |
| DR. ALIE, individually and in her official |) | |
| capacity as Medical Director at DCC |) | |
| Smyrna; RN IHOMA, individually and in |) | |
| her official capacity as Registered Nurse at |) | |
| DCC Smyrna, |) | |
| |) | |
| Defendants. |) | |

**STATE DEFENDANTS' JOINT MOTION TO DISMISS PURSUANT TO RULES 12
(B)(1) AND 12(B)(6) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

COME NOW, the Defendants, Stanley Taylor and Thomas Carroll, by and through undersigned counsel, and hereby respectfully request that this Honorable Court enter an Order, pursuant to Rules 12(b)(1) and 12 (b)(6) of the Federal Rules of Civil Procedure, dismissing with prejudice all claims against the Defendants. In support of their motion to dismiss, the Defendants have filed simultaneously herewith a memorandum of points and authorities demonstrating arguments in favor of the requested relief.

WHEREFORE, the Defendants respectfully request that this Honorable Court enter an Order dismissing Plaintiff's claims with prejudice.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/S/ Aaron R. Goldstein

Aaron R. Goldstein #3735
Deputy Attorney General
Carvel State Office Building
820 N. French Street, 6th floor
Wilmington, DE 19801
(302) 577-8308
Attorney for Defendants Taylor and Carroll.

DATE: June 21, 2005

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| DCC Smyrna, |) | |
| |) | |
| Defendants. |) | |

ORDER

AND NOW, this _____ day of _____, 2005, the Motion to Dismiss filed by Defendants Stanley Taylor and Thomas Carroll in the above-captioned matter having been duly considered, and any opposition thereto,

IT IS ORDERED that the Motion to Dismiss is granted and that judgment is hereby entered in favor of the movants and against the Plaintiff.

The Honorable Kent A. Jordan
United States District Court

CERTIFICATE OF MAILING AND/OR DELIVERY

I hereby certify that on June 21, 2005, I electronically filed Defendants' Motion to Dismiss with the Clerk of the Court using CM/ECF which will send notification of such filing to the following: (incarcerated *pro se* matter). I hereby certify that on June 21, 2005, I have mailed by United States Postal Service, the attached document to the following non-registered participant: Julian A. Miller, S.B.I. # 393626, Delaware Correctional Center, 1181 Paddock Road, Smyrna, DE 19977.

/s/ Aaron R. Goldstein
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